



Sen. John J. Cullerton

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09400HB4357sam003

LRB094 15974 AJ0 58082 a

1 AMENDMENT TO HOUSE BILL 4357

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4357 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Marriage and Dissolution of  
5 Marriage Act is amended by changing Section 607 as follows:

6 (750 ILCS 5/607) (from Ch. 40, par. 607)

7 Sec. 607. Visitation.

8 (a) A parent not granted custody of the child is entitled  
9 to reasonable visitation rights unless the court finds, after a  
10 hearing, that visitation would endanger seriously the child's  
11 physical, mental, moral or emotional health. If the custodian's  
12 street address is not identified, pursuant to Section 708, the  
13 court shall require the parties to identify reasonable  
14 alternative arrangements for visitation by a non-custodial  
15 parent, including but not limited to visitation of the minor  
16 child at the residence of another person or at a local public  
17 or private facility.

18 (a-3) Grandparents, great-grandparents, and siblings of a  
19 minor child, who is one year old or older, have standing to  
20 bring an action in circuit court by petition, requesting  
21 visitation in accordance with this Section. The term "sibling"  
22 in this Section means a brother, sister, stepbrother, or  
23 stepsister of the minor child. Grandparents,  
24 great-grandparents, and siblings also have standing to file a

1 petition for visitation rights in a pending dissolution  
2 proceeding or any other proceeding that involves custody or  
3 visitation issues, requesting visitation in accordance with  
4 this Section. A petition for visitation with a child by a  
5 person other than a parent must be filed in the county in which  
6 the child resides. Nothing in this subsection (a-3) and  
7 subsection (a-5) of this Section shall apply to a child in  
8 whose interests a petition is pending under Section 2-13 of the  
9 Juvenile Court Act of 1987 or a petition to adopt an unrelated  
10 child is pending under the Adoption Act.

11 (a-5) (1) Except as otherwise provided in this subsection  
12 (a-5), any grandparent, great-grandparent, or sibling may file  
13 a petition for visitation rights to a minor child if there is  
14 an unreasonable denial of visitation by a parent and at least  
15 one of the following conditions exists:

16 (A) (Blank); ~~one parent of the child is incompetent as~~  
17 ~~a matter of law or deceased or has been sentenced to a~~  
18 ~~period of imprisonment for more than 1 year;~~

19 (A-5) the child's other parent is deceased or has been  
20 missing for at least 3 months. For the purposes of this  
21 Section a parent is considered to be missing if the  
22 parent's location has not been determined and the parent  
23 has been reported as missing to a law enforcement agency;

24 (A-10) a parent of the child is incompetent as a matter  
25 of law;

26 (A-15) a parent has been incarcerated in jail or prison  
27 during the 3 month period preceding the filing of the  
28 petition;

29 (B) the child's mother and father are divorced or have  
30 been legally separated from each other or there is pending  
31 a dissolution proceeding involving a parent of the child or  
32 another court proceeding involving custody or visitation  
33 of the child (other than any adoption proceeding of an  
34 unrelated child) ~~during the 3 month period prior to the~~

1 ~~filing of the petition~~ and at least one parent does not  
2 object to the grandparent, great-grandparent, or sibling  
3 having visitation with the child. The visitation of the  
4 grandparent, great-grandparent, or sibling must not  
5 diminish the visitation of the parent who is not related to  
6 the grandparent, great-grandparent, or sibling seeking  
7 visitation;

8 (C) (Blank); ~~the court, other than a Juvenile Court,~~  
9 ~~has terminated a parent-child relationship and the~~  
10 ~~grandparent, great-grandparent, or sibling is the parent~~  
11 ~~of the person whose parental rights have been terminated,~~  
12 ~~except in cases of adoption. The visitation must not be~~  
13 ~~used to allow the parent who lost parental rights to~~  
14 ~~unlawfully visit with the child;~~

15 (D) the child is born out of wedlock, the parents are  
16 not living together, and the petitioner is a maternal  
17 grandparent, great-grandparent, or sibling of the child  
18 born out of wedlock; or

19 (E) the child is born out of wedlock, the parents are  
20 not living together, the petitioner is a paternal  
21 grandparent, great-grandparent, or sibling, and the  
22 paternity has been established by a court of competent  
23 jurisdiction.

24 (2) Any visitation rights granted pursuant to this Section  
25 before the filing of a petition for adoption of a child shall  
26 automatically terminate by operation of law upon the entry of  
27 an order terminating parental rights or granting the adoption  
28 of the child, whichever is earlier. If the person or persons  
29 who adopted the child are related to the child, as defined by  
30 Section 1 of the Adoption Act, any person who was related to  
31 the child as grandparent, great-grandparent, or sibling prior  
32 to the adoption shall have standing to bring an action pursuant  
33 to this Section requesting visitation with the child. The  
34 ~~grandparent, great-grandparent, or sibling of a parent whose~~

1 ~~parental rights have been terminated through an adoption~~  
2 ~~proceeding may not petition for visitation rights.~~

3 (3) In making a determination under this subsection (a-5),  
4 there is a rebuttable presumption that a fit parent's actions  
5 and decisions regarding grandparent, great-grandparent, or  
6 sibling visitation are not harmful to the child's mental,  
7 physical, or emotional health. The burden is on the party  
8 filing a petition under this Section to prove that the parent's  
9 actions and decisions regarding visitation times are harmful to  
10 the child's mental, physical, or emotional health.

11 (4) In determining whether to grant visitation, the court  
12 shall consider the following:

13 (A) the preference of the child if the child is  
14 determined to be of sufficient maturity to express a  
15 preference;

16 (B) the mental and physical health of the child;

17 (C) the mental and physical health of the grandparent,  
18 great-grandparent, or sibling;

19 (D) the length and quality of the prior relationship  
20 between the child and the grandparent, great-grandparent,  
21 or sibling;

22 (E) the good faith of the party in filing the petition;

23 (F) the good faith of the person denying visitation;

24 (G) the quantity of the visitation time requested and  
25 the potential adverse impact that visitation would have on  
26 the child's customary activities;

27 (H) whether the child resided with the petitioner for  
28 at least 6 consecutive months with or without the current  
29 custodian present;

30 (I) whether the petitioner had frequent or regular  
31 contact or visitation with the child for at least 12  
32 consecutive months; ~~and~~

33 (J) any other fact that establishes that the loss of  
34 the relationship between the petitioner and the child is

1 likely to harm the child's mental, physical, or emotional  
2 health; and-

3 (K) whether the grandparent, great-grandparent, or  
4 sibling was a primary caretaker of the child for a period  
5 of not less than 6 consecutive months.

6 (5) The court may order visitation rights for the  
7 grandparent, great-grandparent, or sibling that include  
8 reasonable access without requiring overnight or possessory  
9 visitation.

10 (a-7) (1) Unless by stipulation of the parties, no motion to  
11 modify a grandparent, great-grandparent, or sibling visitation  
12 order may be made earlier than 2 years after the date the order  
13 was filed, unless the court permits it to be made on the basis  
14 of affidavits that there is reason to believe the child's  
15 present environment may endanger seriously the child's mental,  
16 physical, or emotional health.

17 (2) The court shall not modify an a-prior grandparent,  
18 great-grandparent, or sibling visitation order that grants  
19 visitation to a grandparent, great-grandparent, or sibling  
20 unless it finds by clear and convincing evidence, upon the  
21 basis of facts that have arisen since the prior visitation  
22 order or that were unknown to the court at the time of entry of  
23 the prior visitation, that a change has occurred in the  
24 circumstances of the child or his or her custodian, and that  
25 the modification is necessary to protect the mental, physical,  
26 or emotional health of the child. The court shall state in its  
27 decision specific findings of fact in support of its  
28 modification or termination of the grandparent,  
29 great-grandparent, or sibling visitation. A child's parent may  
30 always petition to modify visitation upon changed  
31 circumstances when necessary to promote the child's best  
32 interest.

33 (3) Attorney fees and costs shall be assessed against a  
34 party seeking modification of the visitation order if the court

1 finds that the modification action is vexatious and constitutes  
2 harassment.

3 (4) Notice under this subsection (a-7) shall be given as  
4 provided in subsections (c) and (d) of Section 601.

5 (b) (1) (Blank.)

6 (1.5) The Court may grant reasonable visitation privileges  
7 to a stepparent upon petition to the court by the stepparent,  
8 with notice to the parties required to be notified under  
9 Section 601 of this Act, if the court determines that it is in  
10 the best interests and welfare of the child, and may issue any  
11 necessary orders to enforce those visitation privileges. A  
12 petition for visitation privileges may be filed under this  
13 paragraph (1.5) whether or not a petition pursuant to this Act  
14 has been previously filed or is currently pending if the  
15 following circumstances are met:

16 (A) the child is at least 12 years old;

17 (B) the child resided continuously with the parent and  
18 stepparent for at least 5 years;

19 (C) the parent is deceased or is disabled and is unable  
20 to care for the child;

21 (D) the child wishes to have reasonable visitation with  
22 the stepparent; and

23 (E) the stepparent was providing for the care, control,  
24 and welfare to the child prior to the initiation of the  
25 petition for visitation.

26 (2) (A) A petition for visitation privileges shall not be  
27 filed pursuant to this subsection (b) by the parents or  
28 grandparents of a putative father if the paternity of the  
29 putative father has not been legally established.

30 (B) A petition for visitation privileges may not be filed  
31 under this subsection (b) if the child who is the subject of  
32 the grandparents' or great-grandparents' petition has been  
33 voluntarily surrendered by the parent or parents, except for a  
34 surrender to the Illinois Department of Children and Family

1 Services or a foster care facility, or has been previously  
2 adopted by an individual or individuals who are not related to  
3 the biological parents of the child or is the subject of a  
4 pending adoption petition by an individual or individuals who  
5 are not related to the biological parents of the child.

6 (3) (Blank).

7 (c) The court may modify an order granting or denying  
8 visitation rights of a parent whenever modification would serve  
9 the best interest of the child; but the court shall not  
10 restrict a parent's visitation rights unless it finds that the  
11 visitation would endanger seriously the child's physical,  
12 mental, moral or emotional health. ~~The court may modify an  
13 order granting, denying, or limiting visitation rights of a  
14 grandparent, great grandparent, or sibling of any minor child  
15 whenever a change of circumstances has occurred based on facts  
16 occurring subsequent to the judgment and the court finds by  
17 clear and convincing evidence that the modification is in the  
18 best interest of the minor child.~~

19 (d) If any court has entered an order prohibiting a  
20 non-custodial parent of a child from any contact with a child  
21 or restricting the non-custodial parent's contact with the  
22 child, the following provisions shall apply:

23 (1) If an order has been entered granting visitation  
24 privileges with the child to a grandparent or  
25 great-grandparent who is related to the child through the  
26 non-custodial parent, the visitation privileges of the  
27 grandparent or great-grandparent may be revoked if:

28 (i) a court has entered an order prohibiting the  
29 non-custodial parent from any contact with the child,  
30 and the grandparent or great-grandparent is found to  
31 have used his or her visitation privileges to  
32 facilitate contact between the child and the  
33 non-custodial parent; or

34 (ii) a court has entered an order restricting the

1 non-custodial parent's contact with the child, and the  
2 grandparent or great-grandparent is found to have used  
3 his or her visitation privileges to facilitate contact  
4 between the child and the non-custodial parent in a  
5 manner that violates the terms of the order restricting  
6 the non-custodial parent's contact with the child.

7 Nothing in this subdivision (1) limits the authority of  
8 the court to enforce its orders in any manner permitted by  
9 law.

10 (2) Any order granting visitation privileges with the  
11 child to a grandparent or great-grandparent who is related  
12 to the child through the non-custodial parent shall contain  
13 the following provision:

14 "If the (grandparent or great-grandparent, whichever  
15 is applicable) who has been granted visitation privileges  
16 under this order uses the visitation privileges to  
17 facilitate contact between the child and the child's  
18 non-custodial parent, the visitation privileges granted  
19 under this order shall be permanently revoked."

20 (e) No parent, not granted custody of the child, or  
21 grandparent, or great-grandparent, or stepparent, or sibling  
22 of any minor child, convicted of any offense involving an  
23 illegal sex act perpetrated upon a victim less than 18 years of  
24 age including but not limited to offenses for violations of  
25 Article 12 of the Criminal Code of 1961, is entitled to  
26 visitation rights while incarcerated or while on parole,  
27 probation, conditional discharge, periodic imprisonment, or  
28 mandatory supervised release for that offense, and upon  
29 discharge from incarceration for a misdemeanor offense or upon  
30 discharge from parole, probation, conditional discharge,  
31 periodic imprisonment, or mandatory supervised release for a  
32 felony offense, visitation shall be denied until the person  
33 successfully completes a treatment program approved by the  
34 court.

1 (f) Unless the court determines, after considering all  
2 relevant factors, including but not limited to those set forth  
3 in Section 602(a), that it would be in the best interests of  
4 the child to allow visitation, the court shall not enter an  
5 order providing visitation rights and pursuant to a motion to  
6 modify visitation shall revoke visitation rights previously  
7 granted to any person who would otherwise be entitled to  
8 petition for visitation rights under this Section who has been  
9 convicted of first degree murder of the parent, grandparent,  
10 great-grandparent, or sibling of the child who is the subject  
11 of the order. Until an order is entered pursuant to this  
12 subsection, no person shall visit, with the child present, a  
13 person who has been convicted of first degree murder of the  
14 parent, grandparent, great-grandparent, or sibling of the  
15 child without the consent of the child's parent, other than a  
16 parent convicted of first degree murder as set forth herein, or  
17 legal guardian.

18 (g) (Blank). ~~If an order has been entered limiting, for~~  
19 ~~cause, a minor child's contact or visitation with a~~  
20 ~~grandparent, great-grandparent, or sibling on the grounds that~~  
21 ~~it was in the best interest of the child to do so, that order~~  
22 ~~may be modified only upon a showing of a substantial change in~~  
23 ~~circumstances occurring subsequent to the entry of the order~~  
24 ~~with proof by clear and convincing evidence that modification~~  
25 ~~is in the best interest of the minor child.~~

26 (Source: P.A. 93-911, eff. 1-1-05; 94-229, eff. 1-1-06.)".